

# WYOMING LENDER ALERT

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## U.S. Small Business Administration

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Your Small Business Resource

## SBA Secures Funding to Extend Recovery Act Loans

*Agency plans to restart Recovery loan approvals by December 28*

### NOTICE 5000-1136

On December 19, 2009, the President signed the Department of Defense Appropriations Act, which provides an additional \$125 million to support approximately \$4.5 billion in new 7(a) and 504 loans under Sections 501 and 502 of the American Recovery and Reinvestment Act of 2009. Specifically, these funds are available for the payment of certain 7(a) and 504 loan fees and a higher SBA guaranty for certain 7(a) loans. (For more detailed information on Sections 501 and 502 of the Recovery Act, see 74 FR 27196 (June 8, 2009) and 74 FR 27199 (June 8, 2009) and SBA Policy Notices [5000-1097](#), Implementation of Section 501 of the Recovery Act – Fee Elimination Provisions and [5000-1098](#), Implementation of Section 502 of the Recovery Act – Up to a 90 Percent Guaranty on 7(a) Loans.

### **Funding of Loans in Queue**

In anticipation of the exhaustion of Recovery Act, SBA issued Procedural Notice 5000-1131 to establish procedures to transition from Recovery Act funding back to non-Recovery Act funding. As described in Notice 5000-1131, two [SBA Recovery Loan Queues](#) were created: one for 7(a) loans and one for 504 loans. (More detailed description, may be found at:

[http://www.sba.gov/aboutsba/sbaprograms/elending/notices/BANK\\_FY\\_10\\_NOTICES.html](http://www.sba.gov/aboutsba/sbaprograms/elending/notices/BANK_FY_10_NOTICES.html))

As soon as the additional funds appropriated in the recent legislation are ready to be released, all "conditionally approved" requests in the 7(a) and 504 Recovery Loan Queues will be funded, along with new loan requests, in the order they are received, until the new funds are exhausted.

Once all of the requests in the Recovery Loan Queues are funded, the 7(a) and 504 queue web pages will be temporarily removed because there will not be a need to place any applications into a queue to await funding. SBA will reactivate the queues, as necessary, as funds are close to being exhausted. The Recovery Loan Queue homepage will remain on the website and in the "green" phase as long as funding remains readily available.

### **Fee Refunds and Loan Cancellations**

SBA will refund to lenders eligible fees on those non-Recovery Act loans approved on or after December 19, 2009 that would have been eligible for fee relief. If borrowers have already paid lenders for the fee on eligible loans, lenders must reimburse the borrowers from the SBA refund and retain documentation in their loan files to prove they have done so.

There will be no fee refunds

or higher guarantees for loans approved as non-Recovery Act loans prior to December 19, 2009.

In addition, SBA will not allow loans that were approved prior to December 19, 2009 to be cancelled and then resubmitted as new Recovery Act loans unless the resubmitted loan is not a replacement for the original loan, as determined by SBA on a case by case basis. Cancellation and resubmission of the same loan would use the limited appropriations made available under the Recovery Act to provide fee relief and/or an increased guaranty on loans already approved without the need for the provisions of the Recovery Act and would be contrary to the intent of the new funding, which is to stimulate new lending.

SBA will consider on a case-by-case basis the submission of a loan that the lender can demonstrate is not a replacement for the original loan. Requests for such consideration must be submitted by the 7(a) lender to the Standard 7(a) Loan Guaranty Processing Center in Citrus Heights, California, and by the CDC to the Sacramento 504 Loan Processing Center. The request will be

*(continued on page 4)*

## Recovery Act Loan Documentation Requirements and Restrictions

The American Recovery and Reinvestment Act of 2009 (the "Recovery Act") (P.L. 111-5) provided SBA with the ability to reduce certain loan fees and to increase certain loan guarantee percentages, subject to the requirements and restrictions outlined in the law. SBA has issued policy notices and Federal Register notices to advise its lending and resource partners of these additional requirements and restrictions and included them in SBA's loan application systems.

This Notice serves as a reminder to SBA lenders and Certified Development Companies (CDCs) about documentation requirements for Recovery Act loans. SBA is committed to being fair and transparent with its lending partners, and is issuing this notice to remind lenders and CDCs of their Recovery Act obligations. Lenders and CDCs should be aware that early reviews by SBA's Office of the Inspector General have found documentation related deficiencies when reviewing Recovery Act loans.

In order to properly document Recovery Act loan files, SBA reminds lenders and CDCs to make sure that their loan files contain specific documentation in the following areas:

1. **Borrower certification of hiring practices for 7(a) Loans with the Increased Guaranty:** Prior to first disbursement on a 7(a) loan with the increased guaranty, lenders must require that the Borrower and any Operating Company certify that they have not been determined by the Secretary of Home-

land Security or the Attorney General to have engaged in a pattern or practice of hiring an alien, recruiting an alien or referring an alien for a fee for employment in the United States, knowing that the person is an unauthorized alien. This certification is in addition to the existing disclosure requirement on SBA Form 912, Statement of Personal History. (See SBA Policy Notice 5000-1098, effective March 16, 2009 and the notice published in the Federal Register at 74 FR 27199, 27200.) This certification is only required on loans with an increased guaranty and must be retained in the loan file.

2. **Reimbursement of Borrower Fees for 7(a) and 504 Loan Guarantees:** If borrowers had already paid a fee on eligible 7 (a) loans approved by SBA on or after February 17, 2009 and before March 16, 2009, lenders were sent fee refunds from SBA, which they must use to reimburse borrowers. Likewise, if a borrower had already paid a CDC for the Processing Fee on eligible 504 loans approved by SBA on or after February 17, 2009 and before March 16, 2009, the CDC was sent a refund from SBA that must be used to reimburse the borrower. Lenders and CDCs must document borrower receipt of the refund and be prepared to produce such documenta-

tion to SBA upon request. (See SBA Policy Notice 5000-1097, effective March 16, 2009 and the notice published in the Federal Register at 74 FR 27196, 27198.) Appropriate forms of documentation regarding fee reimbursement may include wire transfers or cancelled checks. These documents must be included in the loan file.

### **Allowable Uses of Recovery Act Funds:**

The Recovery Act established that no funds could be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool. SBA loan guarantees funded with Recovery Act funds may not be made available to businesses primarily engaged in these activities or to businesses that intend to use guaranteed loans for the acquisition, construction, renovation or other purposes that include restricted uses. (See SBA Policy Notice 5000-1105, effective May 22, 2009, for further guidance on the restricted uses of Recovery Act funds, as well as a listing of NAICS codes for restricted businesses and activities.) Documentation for acceptable uses of Recovery Act funds includes the following items:

- A. **Certification that no funds will be used for a restricted use:** Lenders and CDCs must certify on the applicable eligi-

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bility questionnaires and checklists that no loan proceeds will be used for a restricted use. All applicable eligibility questionnaires and checklists for the 7(a) and 504 programs have been modified to include an additional statement to this effect and must be retained in the lender's or CDC's loan file.

**B. Certification of uses for working capital funds:** If an applicant receives a working capital loan, prior to first disbursement, the lender must require the Borrower and any Operating Company to certify that no funds from the working capital loan will be used for restricted purposes. This certification must

be retained in the lender's or CDC's loan file.

**C. Credit memorandum and certification for projects with restricted uses:**

If an applicant will receive a loan to acquire, construct or renovate an existing facility that also has a golf course or swimming pool, for example, then:

- i. the lender or CDC must document in the credit memorandum that the use of proceeds does not include financing the restricted use and document the other resources that cover the financing of this component; and
- ii. prior to first disbursement the lender or CDC must require the Borrower and any Operating Company to certify that alternate funding (which may come from the borrower's equity) has been obtained

to pay the costs allocable to the acquisition, construction or renovation of the golf course or swimming pool.

The credit memorandum and the certification must be retained in the lender's or CDC's loan file.

SBA urges all participants to ensure that their documentation of Recovery Act loans is complete and accurate. SBA will review Recovery Act loans carefully during the purchase process and in the course of lender oversight activities in order to ensure that the requirements set out in the law were fully met.

Questions concerning this Notice should be directed to the Wyoming SBA field office at (307) 261-6500 or:

[www.sba.gov/wy](http://www.sba.gov/wy)

**See SBA Policy Notice 5000-1105, effective May 22, 2009, for further guidance**

## SBA Authorization Wizard Software Update Announced

By approximately January 25, 2010, the Sacramento Loan Processing Center expects to start using the MS Word 2007 version of the Authorization Wizard and to require all 504 applications submitted to the Center include a draft Authorization in the MS Word 2007 Wizard format. The start date of January 25, 2010 is tentative, because MS Word 2007 version of the Wizard is currently being tested.

The tests are proceeding well, and the Center anticipates the 2007 Wizard will be ready to use in January. The wizard being tested is nearly identical to the current version in its interface with the user and its functionality.

Why are they announcing a tentative date rather than wait until they could specify a definite date? The reason is that a survey indicated that many CDCs would want as much as two months lead

time to transition to the 2007 Wizard since it relies upon Microsoft Office 2007.

It is hoped this announcement provides enough time to prepare for the transition.

If you have any questions about the shift to the MS Word 2007 version of the Wizard, please check with David Miller ([david.miller@sba.gov](mailto:david.miller@sba.gov)) or email Richard Taylor at: [richard.taylor@sba.gov](mailto:richard.taylor@sba.gov)

## Calendar

Jan 1 Holiday—New Year

Jan 5 Women's Roundtable  
Newcastle

Jan 6 Women's Roundtable  
Casper

Jan 14 Women's Roundtable  
Buffalo

Jan 18 Holiday—Martin Luther King

Jan 28 Women's Roundtable  
Worland



307 261-6505

## Success Story: Waves Web Design

In August 2002 Anthony Marcil and Summer Henderson jumped into their vehicle and started cross country from Massachusetts. They ended up in Lander, Wyoming, with no job and no place to stay. Using the barter system, they traded services for lodging and daily living expenses generating the origin of Waves Web Design in January 2003, a professional web design and web marketing company. Gradually, they worked their way to Casper, Wyoming. They worked for the National 9 Hotel locally and, through them, picked up jobs with the same hotel in Idaho and Utah and earned the privilege of designing the national site. This generated enough income for them to move into a home and set up shop in Casper. Today, they continue to use the same exchange system to offset much of their advertising and marketing expenses.

Waves Web Design is completely self-funded. Anthony and Summer have pulled themselves up from their bootstraps to become known

and successful. They passionately believe in quality of work and service. They are a serviced oriented business and invite you to call anyone on their client list for a reference. Anthony and Summer have an edge over larger companies because sales are handled with your web site designer not some slick salesman who has nothing to do with the final product. They stay abreast of new technology as it evolves and have the best equipment for designing web sites and other contracted work.

Anthony and Summer have taken advantage of SBA's services by calling the Wyoming District Office for information and advice on where to go next. They attended a GroBiz contracting seminar to find out what's required to work with the government. Women's Roundtables provided them an opportunity to showcase their business. Anthony attended college in Massachusetts taking marketing classes

and Summer received her degree from Queensland, Australia's James Cook University with majors in zoology and environmental science with a minor in chemistry.

Interested in giving back to the community, Waves Web Design supports the Chamber of Commerce's Business Challenge offering a \$5000 web design award to the winner. They offer non-profit agencies a 30% to 50% discount to plan and develop a site and locally have put together sites for Boy Scouts Wyoming, Special Olympics Wyoming, NOWCAP Services Wyoming, to mention a few. Summer and Anthony have made presentations, both in classroom and auditorium format, to both local college and high school students.

For more information, please contact Waves Web Design at:

[www.waveswebdesign.com](http://www.waveswebdesign.com), call them at 307-265-2157 or email them at: [info@waveswebdesign.com](mailto:info@waveswebdesign.com)



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reviewed and a recommendation will be forwarded to the Director/Office of Financial Assistance for approval. Provisions for this consideration and the general cancellation policy were set out in [SBA Policy Notice 5000-1103](#).

### **Extension of the Higher Guaranty on 7(a) Loans**

The Department of Defense Appropriations Act also extended the higher guaranty for 7(a) loans available under section 502 of the Recovery Act to February 28, 2010. Because of this extension, new 7(a) loan applications with the

higher guaranty may be approved by SBA through February 28, 2010 or such earlier date as funds are exhausted.

### **Continuing Requirements**

As a reminder, all Recovery Act requirements continue to apply to new Recovery Act loans. This includes the requirement to document the loan file to show compliance with the particular eligibility requirements for Recovery Act loans. SBA Information Notice 5000-1134, issued December 9, 2009, reminds 7(a) lenders and CDCs of the specific documentation require-

ments for certifications concerning the borrower's hiring practices and that no Recovery Act loan funds go towards financing restricted uses (swimming pools, golf courses, zoos, aquariums and casinos or other gambling establishments). Lenders and CDCs are also reminded of the requirements governing the reporting of jobs created and retained.

Questions concerning this should be directed to the Wyoming District Office at 307-261-6500.

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